

REGULATIONS FOR THE APPROVAL OF MARIJUANA FIELD TESTS FOR DETECTION
OF MARIJUANA PLANT MATERIAL

6 VAC 40-50-10 et seq. Regulations for the Approval of Marijuana Field Tests for Detection of
Marijuana Plant Material.

CHAPTER 50.

REGULATIONS FOR THE APPROVAL OF MARIJUANA FIELD TESTS FOR DETECTION
OF MARIJUANA PLANT MATERIAL.

PART I.

DEFINITIONS.

6 VAC 40-50-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings
unless the context clearly indicates otherwise:

"Agency" means any federal, state or local government law-enforcement organization in the
Commonwealth.

"Approval authority" means the Director of the Department of Forensic Science or his designee.

"Department" means the Department of Forensic Science.

"List of approved marijuana field tests" means a list of Duquenois-Levine field tests approved by
the Department for use by law-enforcement agencies in the Commonwealth and periodically
published by the Department in the Virginia Register of Regulations in accordance with §19.2-
188.1(B) of the Code of Virginia.

"Manufacturer" means any entity which makes or assembles marijuana field tests or marijuana
field test kits to be used by any law-enforcement officer or agency in the Commonwealth for the
purpose of detecting marijuana plant material.

"Manufacturer's instructions and claims" means those testing procedures, requirements,
instructions, precautions and proposed conclusions which are published by the manufacturer and
supplied with the marijuana field tests or marijuana field test kits.

"Marijuana" means marijuana, as defined in §18.2-247 of the Code of Virginia.

"Marijuana field test" means any Duquenois-Levine test unit used outside of a chemical
laboratory environment to detect the presence of marijuana plant material.

"Marijuana field test kit" means a combination of individual marijuana field test units.

PART II.

PROCESS FOR APPROVAL OF FIELD TESTS.

6 VAC 40-50-20. Authority for approval.

REGULATIONS FOR THE APPROVAL OF MARIJUANA FIELD TESTS FOR DETECTION OF MARIJUANA PLANT MATERIAL

Section 19.2-188.1(B) of the Code of Virginia provides that the Department of Forensic Science shall approve marijuana field tests for use by law-enforcement officers to enable them to testify to the results obtained in any trial for a violation of § 18.2-250.1 regarding whether or not any plant material, the identify of which is at issue, is marijuana.

6 VAC 40-50-30. Request for approval.

A. Any manufacturer who wishes to have marijuana field tests or marijuana field test kits approved pursuant to this Chapter shall submit a written request for approval to the Department Director at the following address:

Director

Department of Forensic Science

700 North Fifth Street

Richmond, VA 23219.

B. Materials sufficient for at least 10 marijuana field tests shall be supplied by each manufacturer. The materials shall include all instructions, precautions, color charts, flow charts and the like which are provided with the marijuana field test or marijuana field test kit and which describe the use and interpretation of the tests.

C. The manufacturer shall also include exact specifications as to the chemical composition of all chemicals or reagents used in the marijuana field tests. These shall include the volume or weight of the chemicals and the nature of their packaging. Material Safety Data Sheets for each chemical or reagent shall be sufficient for this purpose.

D. This approval may require up to 90 days from the receipt of the written request and all needed materials from the manufacturer.

E. The Department will use marijuana plant material to assess those marijuana field tests submitted for approval. In order to be approved, the marijuana field test must correctly and consistently react in a clearly observable fashion to the naked eye, and perform in accordance with manufacturer's instructions and claims.

6 VAC 40-50-40. Notice of approval.

The Department will notify each manufacturer in writing of the approval or disapproval of each test for which approval was requested. Should any test not be approved, the manufacturer may resubmit their request for approval of that marijuana field test according to the previously outlined procedures at any time.

6 VAC 40-50-50. Maintenance of approved status.

REGULATIONS FOR THE APPROVAL OF MARIJUANA FIELD TESTS FOR DETECTION OF MARIJUANA PLANT MATERIAL

The Department may require that this approval be done as often as annually for routine purposes. If any modifications are made to an approved marijuana field test by the manufacturer, the Department shall be notified in writing of the changes. If unreported modifications are discovered by the Department, the Department may require that all testing and approval be repeated for the particular manufacturers' approved marijuana field tests. The Department shall notify the manufacturer in writing of this requirement. Any modified marijuana field test must be approved before it can be used in accordance with §19.2-188.1(B) of the Code of Virginia. These changes shall include, but are not limited to any chemical, procedural or instructional modifications made to the marijuana field test.

6 VAC 40-50-60. Publication.

Upon completion of such testing and in concurrence with the approval authority, the Department will periodically publish a list of approved marijuana field tests in the General Notices section of the Virginia Register of Regulations. The Department will also periodically publish the list on its website. The Department may, in addition, provide copies of its approved list to any law enforcement agency. The Department may share any information or data developed from this testing with these agencies.

6 VAC 40-50-70. Liability.

A. The Department assumes no liability as to the safety of these marijuana field tests or marijuana field test kits, any chemicals contained therein or the procedures and instructions by which they are used.

B. The Department further assumes no responsibility for any misuse or incorrect interpretation of results.

PART III. FEES.

6 VAC 40-50-80. Fees.

Manufacturers will be charged a fee of \$50 for each marijuana field test for which individual approval is requested. The Department will evaluate the manufacturers' request and notify them in writing of the amount due before testing begins. Manufacturers who wish to withdraw a request for approval shall immediately notify the Department in writing. The Department's assessment of the amount of payment required will be based upon a detailed evaluation of the manufacturer's request and that amount will be final. Approval will not be granted before full payment is made to the Treasurer of Virginia.